

EXHIBIT 9

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CALIFORNIA BERRY CULTIVARS, LLC,)
)
Plaintiff,)
) Case No.
vs.) 3:16-cv-02477-VC
)
THE REGENTS OF THE UNIVERSITY OF)
CALIFORNIA, a corporation,)
)
Defendant.)
_____)
)
THE REGENTS OF THE UNIVERSITY OF)
CALIFORNIA, a corporation,)
)
Cross-Complainant,)
)
v.)
)
CALIFORNIA BERRY CULTIVARS, LLC,)
DOUGLAS SHAW, and KIRK LARSON,)
)
Cross-Defendants.)
_____)

VIDEOTAPED DEPOSITION OF ARTHUR GEN KAWAMURA
Palo Alto, California
Wednesday, December 14, 2016
Volume I

Reported by:
CARLA SOARES
CSR No. 5908
Job No. 2487797
Pages 1 - 376

1 understand that, "you" being CBC? 11:04:50

2 MR. LIPPETZ: Objection. Assumes facts,
3 misstates prior testimony, and improper legal
4 conclusion.

5 Go ahead. 11:05:00

6 THE WITNESS: CBC as an entity, was, upon
7 its formation, working with the University of
8 California to move a program forward that had become
9 stalled for different reasons.

10 And our -- our work to then create a block 11:05:34

11 of varieties that we could use in our program was
12 then created and conceived and put into play by our
13 members, which include International Semillas,
14 Dr. Shaw, Dr. Larson, and our other experts, which
15 would have been Lucky and Lassen, basically doing 11:06:08
16 the same collaborative work that they had been doing
17 for decades.

18 So what we would have known is, we would
19 know that we have to observe international laws,
20 national laws, and comply with them accordingly to 11:06:31
21 make this cross and make these varieties available
22 for use.

23 BY MS. KREVANS:

24 Q Sitting here today, testifying for CBC
25 under oath, please tell me, when did CBC first 11:06:45

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1 understand that if the crosses set out in the 11:06:50
2 Shaw/Larson 2013 cross plan and 2014 cross plan that
3 were, in fact, performed in Spain had been performed
4 in the United States, that would have been
5 infringement of UC's patents for any cross where a 11:07:13
6 UC-patented plant was the parent?

7 MR. LIPPETZ: Again, misstates prior
8 testimony. Objection. Assumes a fact not in
9 evidence.

10 THE WITNESS: I would believe that we 11:07:24
11 would have understood that in 2014.

12 BY MS. KREVANS:

13 Q Okay. What was the event -- without
14 telling me the specific content of a conversation
15 with a lawyer, if that was involved, what was the 11:07:32
16 event that caused CBC to come to that realization?

17 A I do not have a specific event, but it
18 would have been in conversation -- I understand it
19 would have been in conversations with Professor
20 Shaw, with our other partners who are -- again, are 11:07:52
21 experts in this arena, much more so than I am --
22 that they would have considered the different rules
23 and regs, regulations, and moved forward with the
24 plans to create a set of new plants.

25 Q Can you tell me when in 2014 CBC first 11:08:20

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were administered an oath; that
8 a record of the proceedings was made by me using
9 machine shorthand which was thereafter transcribed
10 under my direction; that the foregoing transcript is
11 a true record of the testimony given.

12 Further, that if the foregoing pertains to
13 the original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [] was [x] was not requested.

16 I further certify I am neither financially
17 interested in the action nor a relative or employee
18 of any attorney or any party to this action.

19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.

21
22 Dated: 12/29/2016

23 
24

25 CARLA SOARES

CSR No. 5908